

HOUSE BILL NO. 191

INTRODUCED BY BECKER

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT SPOUSAL PRIVILEGE APPLIES ONLY TO COMMUNICATIONS MADE BETWEEN SPOUSES DURING THE MARRIAGE; CLARIFYING EXCEPTIONS; AMENDING SECTION 26-1-802, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-1-802, MCA, is amended to read:

"26-1-802. Spousal privilege. ~~A husband cannot be examined for or against his wife without her consent or a wife for or against her husband without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception~~ Neither spouse may, without the consent of the other, testify DURING OR AFTER THE MARRIAGE concerning any communication made by one to the other during their marriage. The privilege is restricted to communications made during the existence of the marriage relationship and does not extend to communications made prior to the marriage or to communications made after the marriage is dissolved, except with respect to those communications made during the marriage. The privilege does not apply to a civil action or proceeding by one spouse against the other or to a criminal action or proceeding for a crime committed by one spouse against the other or against a child of either spouse."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

- END -